

1 BARRY J. PORTMAN
2 Federal Public Defender
3 ANGELA M. HANSEN
Assistant Federal Public Defender
3 555 - 12th Street, Suite 650
Oakland, CA 94607-3627
4 Telephone: (510) 637-3500

5 Counsel for Defendant GATES

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7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION

10 UNITED STATES OF AMERICA,) No. CR-10-00039 SBA
11 Plaintiff,) STIPULATED REQUEST TO CONTINUE
12 v.) HEARING DATE TO JUNE 15, 2010 AND
13) TO EXCLUDE TIME UNDER THE
14) SPEEDY TRIAL ACT AND [PROPOSED]
15) ORDER
16)
TOMMY ANDRE GATES,)
14) Hearing Date: May 4, 2010
15) Time: 9:00 a.m.
16)
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17 The above-captioned matter is set on May 4, 2010 before this Court for a status hearing.
18 The parties jointly request that the Court continue the matter to June 15, 2010 at 9:00 a.m., and
19 that the Court exclude time under the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv),
20 between the date of this stipulation and June 15, 2010.

21 On January 14, 2010, the Grand Jury charged Mr. Gates with possession with intent to
22 distribute marijuana, in violation of 21 U.S.C. § 841(a)(1), possession of a firearm in furtherance
23 of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i), and felon in possession of
24 a firearm, in violation of 18 U.S.C. § 922(g). For the most serious offense – the § 924(c) charge
25 – Mr. Gates is subject to a mandatory minimum sentence of five years, and a statutory maximum
26 of life imprisonment. He also faces a statutory maximum sentence of five years for the drug

1 trafficking charge and a maximum of ten years for the felon-in-possession of a firearm charge.

2 Mr. Gates made his initial appearance on January 27, 2010.

3 The current status of the case is that the parties are negotiating this matter and anticipate
4 that there will be a negotiated disposition of this case. In the meantime, the defense has received
5 discovery and needs additional time to review and process the materials provided, including
6 evidence photos produced to the defense this week. The defense also needs time to discuss these
7 discovery materials with Mr. Gates. Additionally, the defense has requested an opportunity to
8 have an expert inspect a firearm recovered in this case before it is potentially altered following a
9 government test-firing, and the government has agreed to allow a defense expert to inspect the
10 firearm. The defense also requires additional time to investigate the circumstances of the offense
11 and to collect Mr. Gates' prior conviction records to prepare an estimate of his anticipated
12 Guidelines range. Finally, defense counsel will be out of town and unavailable from May 11
13 through May 25, 2010 and will not be in a position to work on this case during that time frame.

14 The requested continuance will allow the defense to complete its review of the discovery,
15 to investigate the underlying facts of the case, to have an expert inspect evidence, and to obtain
16 and review relevant criminal history records. For this reason, the parties agree that the failure to
17 grant this continuance would unreasonably deny counsel for defendant the reasonable time
18 necessary for effective preparation, taking into account the exercise of due diligence. The parties
19 also agree that because of defense counsel's unavailability for two weeks in May 2010, the
20 failure to grant this continuance would unreasonably deny defendant continuity of counsel.

21 The parties further stipulate and agree that the ends of justice served by this continuance
22 outweigh the best interest of the public and the defendant in a speedy trial. Accordingly, the
23 parties agree that the period of time from the date of this Stipulation to June 15, 2010, should be
24 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A)
25 and (B)(iv), for continuity of defense counsel and also for effective preparation of defense
26 counsel, taking into account the exercise of due diligence.

1 DATED: April 29, 2010

/S/
SKYE DAVIS
Assistant United States Attorney

2 DATED: April 29, 2010

/S/
ANGELA M. HANSEN
Assistant Federal Public Defender

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4 I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/)
within this e-filed document.

5 /S/ ANGELA M. HANSEN

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ORDER

2 Based on the reasons provided in the stipulation of the parties above, the Court hereby
3 FINDS:

4 1. Given defense counsel's need to complete her review of the discovery and to
5 discuss it with her client, and given that the government has agreed to allow a defense expert to
6 inspect a firearm recovered in this case;

7 2. Given that the defense needs additional time to investigate the underlying facts of
8 the case and to obtain relevant records to calculate defendant's sentencing Guidelines range:

9 3. Given that these above-listed tasks are necessary to the defense preparation of the
10 case and that the failure to grant the requested continuance would unreasonably deny counsel for
11 defendant the reasonable time necessary for effective preparation, taking into account the
12 exercise of due diligence;

13 4. Given that defense counsel will be out of town and unavailable from May 11
14 through May 25, 2010 and will not be in a position to work on this case during those weeks, and
15 that the failure to grant this continuance would unreasonably deny defendant continuity of
16 counsel;

17 5. Given that the ends of justice served by this continuance outweigh the best interest
18 of the public and the defendant in a speedy trial;

19 Based on these findings, IT IS HEREBY ORDERED that the STATUS date of May 4,
20 2010, scheduled at 9:00 a.m., before the Honorable Saundra Brown Armstrong, is vacated and
21 reset for June 15, 2010, at 9:00 a.m. It is FURTHER ORDERED that time is excluded pursuant
22 to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), from May 4, 2010 to June 15,
23 2010.

25 || DATED: 5/3/10

Saundra B. Armstrong
HON. SAUNDRA BROWN ARMSTRONG
United States District Judge